

SECTION VII: YELLOW MEDICINE COUNTY ANIMAL FEEDLOT ORDINANCE

INTENT

An adequate supply of healthy livestock, poultry, and other animals is essential to the well being of Yellow Medicine County citizens and the State of Minnesota. These domesticated animals provide our daily source of meat, milk, eggs and fiber. Their efficient, economic production must be the concern of all consumers if we are to have a continued abundance of high-quality, wholesome food and fiber at reasonable prices.

However, livestock, poultry and other animals produce manure which may, when improperly stored, transported, or disposed of, negatively affect Yellow Medicine County's environment. When animal manure adds to air, water, or land pollution in the County, it must be controlled.

The following standards for the control of livestock, poultry and other animal feedlots and manure application have been promulgated to provide protection against pollution caused by manure from domesticated animals. However, these standards recognize that animal manure provides beneficial qualities to the soil and to the production of agricultural crops.

All feedlot owners and operators should act as good neighbors and apply animal manure when the time of year, wind direction and closeness of neighboring dwellings is least affected and to use consideration in selection of an appropriate time and place of application. All feedlots shall be operated in a nuisance free manner consistent with the certificate of compliance and the standards set forth in this Ordinance and the Minnesota Pollution Control Agency.

These rules comply with the policy and purpose of the State of Minnesota in regard to the control of pollution as set forth in Minnesota State Statutes Chapters 115 and 116 and the Land Use Enabling Legislation Chapter 394. It has been our experience that the environment and residential and agricultural uses of land are often incompatible and this is the purpose of these feedlot performance standards, regulating the uses and development of land in Yellow Medicine County which may adversely affect the health, safety, morale and general welfare of the public.

Subdivision 1.0 Adoption By Reference of State Regulation

Pursuant to Minnesota Statutes, the Yellow Medicine County Board of Commissioners hereby adopts by reference Minnesota Rules Chapter 7020 for the control of pollution from animal feedlots, as amended.

Subdivision 2.0 Scope

The provisions of parts of Minnesota Rules Chapter 7020 govern the storage, transportation, disposal, and utilization of animal manure and the application for issuance of permits for construction and operation of animal manure management and disposal or utilization systems for the protection of the environment.

From and after the date of adoption of this Ordinance and subsequent amendments, all existing or proposed new feedlots or expansion of existing feedlots shall be in conformity with the provision of this Ordinance and Minnesota Rules Chapter 7020.

No person shall permit or allow their land or property under their control to be used for any new animal feedlot or expansion of an existing feedlot within Yellow Medicine County unless in compliance with the provisions of this Ordinance and all pertinent subdivisions of this Ordinance.

All feedlots within Yellow Medicine County shall manage animal manure in compliance with this Ordinance.

Nothing in this Ordinance shall exempt any owner or operator of any feedlot from conforming to applicable state or federal regulations governing confined feeding operations or any other provisions of this Ordinance.

Subdivision 3.0 General Provisions

A. Interpretation

In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by State Statute.

B. Severability

If any subdivision, clause, provision, or portion is held unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected by that determination.

C. Administration and Enforcement

The Yellow Medicine County Planning and Zoning Department and the Yellow

Medicine County Feedlot Officer, shall be responsible for the administration and enforcement of this Ordinance. The Yellow Medicine County Board of Commissioners may establish permitting fees as necessary.

Any violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, shall constitute a misdemeanor, and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to this Ordinance.

D. Jurisdiction

1. All animal feedlots that exceed 10 animal units (A.U.), as defined in this Ordinance, within the shoreland areas as defined in the Yellow Medicine County Shoreland Management Ordinance;
2. All animal feedlots that exceed 50 animal units (A.U.) located in all other areas of Yellow Medicine County outside the incorporated limits of municipalities.

E. Presumptions / Burden of Proof

1. There is a presumption that no feedlot existed previously on the site proposed for feedlot operations.
2. For a site to be considered an existing feedlot, the land owner bears the burden of establishing, to the satisfaction of the Zoning Administrator and by a preponderance of the evidence, that more than 50 animal units were maintained at the proposed site at some time within the previous five years.
3. The land owner bears the burden of establishing, to the satisfaction of the Zoning Administrator and by a preponderance of the evidence, all facts regarding the number of animal units maintained on a particular site for any particular period of time relevant to determining the permitting requirements applicable to particular site.
4. The Zoning Administrator shall determine the boundaries of an existing feedlot.

Subdivision 4.0 Permit/Registration Requirements

No person shall operate an animal feedlot without being registered or obtaining an NPDES, SDS, construction short-form, or interim permit. Unless otherwise noted within this Ordinance, all MPCA Feedlot Rules and Regulations and other applicable State and Federal laws apply.

- A. If land or conditional use permits are required, permits shall be issued by the County and shall be conditional upon complying with the terms and conditions of the permits issued by the Minnesota Pollution Control Agency for the operation of feedlots. No conditional use permit shall be issued without:

1. Manure Management Plan
 2. Approved DNR Water Appropriations permit, if required
 3. Dead Animal Disposal Plan
- B. Animal feedlots where all other provisions of this Ordinance have been met and the animal units are less than 500 shall be a permitted use. All other feedlots shall require a Conditional Use permit or Variance, as applicable.
- C. No feedlot shall exceed 2,000 animal units. (A variance may be requested from this requirement, see Subdivision 11.0).
- D. A variance shall be required for:
1. Any expansion of an existing feedlot, with 500 to 999 animal units located on a tract of land less than 10 acres, which has been subdivided prior to the adoption of the ordinance.
 2. Any expansion of an existing feedlot to greater than 1,000 animal units, located on a tract of land less than 20 acres, which has been subdivided prior to the adoption of the ordinance.
- E. All handling and disposal of dead livestock shall meet the minimum standards required by the Board of Animal Health and the Minnesota Pollution Control Agency.
- F. Earthen basins, lagoons, or anaerobic earthen basins to be used for manure storage shall not be allowed.

Exceptions:

1. Earthen basins designed and constructed for pollution abatement shall be permitted, provided that they meet the following criteria.
 - a. considered a potential pollution hazard as described by the MPCA and the NRCS.
 - b. runoff from the lot shall consist of a minimum of 50% snow melt or rain water.
 - c. meet the minimum standards of this Ordinance
 2. Earthen basins designed and constructed for the collection of milking center waste water and ruminant animal waste. Basins for animal waste generated by more than 1,000 animal units shall have a minimum of nine (9) months storage capacity. Basins shall meet the minimum construction standards required by MPCA.
- G. Open air liquid manure holding structures for swine shall not be allowed.
- H. Any new animal feedlot, with 500 to 999 animal units or more shall be on a tract of land, not less than 10 acres. New animal feedlots with 1,000 animal units or more

shall be on a tract of land not less than 20 acres. Said tract of land shall not be subdivided.

- I. The applicant of any feedlot request of 500 animal units or more, shall no later than 10 business days after the application is submitted, provide notice to each resident and each owner of real property within 5,000 feet of the perimeter of the proposed feedlot. Notification shall be delivered as provided in M.S. 116.07, Subd. 7a and Minnesota Rules Chapter 7020.

Subdivision 5.0 Animal Units

An animal unit shall be determined as follows:

A. Dairy cattle:

Mature dairy cow	= 1.4
Heifer	= .7
Calf	= .2

B. Beef cattle:

Slaughter steer/heifer, stock cow or bull	= 1.0
Cow/calf unit	= 1.2
Feeder steer/heifer	= .7
Calf	= .2

C. Swine:

Sow w/ piglets under 14 days old	= .4
Swine under 55 lbs.	= .05
Swine over 55 lbs.	= .3

D. Horse: = 1.0

E. Sheep: = .1

F. Goat = .15

G. Turkeys: = .018

H. Chickens: = .005

I. Duck: = .01

Subdivision 6.0 Setback Requirements for Feedlots and Manure Storage Areas

A. No new feedlot or manure storage area shall be constructed/operated within the following setback distances.

1. 1 mile ó public parks
2. 1 mile ó municipality or subdivision
3. 1 mile ó 10 or more dwellings within a 1 mile radius
4. ½ mile ó Urban Expansion Management District
5. ½ mile ó existing building site
6. ½ mile ó FAA approved airport
7. ½ mile ó active cemeteries
8. ¼ mile ó inactive cemeteries
9. ½ mile ó buildings used as a church, synagogue, or place of worship with regularly scheduled services

B. No manure storage area or livestock structures shall be located within 300 feet of a public, private, county or judicial drainage ditch.

C. No dwelling shall be allowed within ½ mile of an existing feedlot, unless it is to replace an existing or abandoned dwelling.

D. New feedlots shall not be located within a Shoreland or Floodplain Management District.

EXCEPTION:

For feedlots with 500 animal units or less, where the required setback cannot be met, the Waiver Form may be utilized.

Subdivision 7.0 Animal Waste Storage Structures

- A. All new liquid manure holding structures for animal waste generated by 1,000 animal units or more, shall have a minimum storage capacity of nine months and shall meet the minimum construction standards required by MPCA.
- B. All new liquid manure holding structures for animal waste generated by less than 1,000 animal units, shall have a minimum storage capacity of seven months and shall meet the minimum construction standards required by MPCA.

Subdivision 8.0 Animal Waste Utilization and Application Setbacks

- A. Application of all animal waste within Yellow Medicine County shall comply with the following setbacks:

	<u>Surface Applied</u>	<u>Incorporated or Injected</u>
1. Watercourse, streams, rivers, lakes, Wetlands, drainage ditches	300ø	300ø
2. Municipal Well	1,000ø	1,000ø
3. Private Wells	300ø	200ø
4. Residential Area (10 or more homes) or municipality	500ø	500ø
5. Neighboring Dwelling	500ø	500ø
6. Urban Expansion Management District	500ø	500ø
7. 10 Year Floodplain	Prohibited	Permitted
8. Tile Intakes	300ø	10ø
9. Road Right of Way	Prohibited	Prohibited

- B. Where an area's topography slopes away from an adjacent watercourse, animal manure may be exempted from the required setbacks upon written approval of the Zoning Administrator as long as the MPCA minimum guidelines are met.
- C. Irrigation of liquid manure shall not be allowed.
- D. All waste utilization of animal manure as fertilizer shall be according to Natural Resources Conservation Service Standards, the MPCA or the University of Minnesota.
- E. Spreading agreements shall be provided to the Zoning Administrator when adequate acres for spreading are not owned by the feedlot owner/operator.
- F. All liquid manure must be incorporated or injected except during frozen soil conditions. Winter application of liquid manure must have prior approval from the Zoning Administrator, and may only be granted in case of emergency.

Subdivision 9.0 Carcass Disposal

- A. Proper disposal of animal carcasses is important to prevent livestock disease transmission and to protect air and water quality. All handling and disposal of dead livestock shall meet the minimum standards required by the Board of Animal Health, University of Minnesota and the Minnesota Pollution Control Agency, such as but not limited to:

Burial:

1. Carcasses must be buried in accordance with Minnesota Pollution Control standards.
2. The carcass must be five feet above the seasonal high water table. Do not place carcass in sandy or gravelly soils. Maintain at least 10 feet of separation between the carcass and the bedrock.
3. Immediately cover the animal with a minimum of three feet of soil.

Incineration:

1. Carcass must be incinerated in a Minnesota Pollution Control approved incinerator.
2. Ash and gas emissions from the incinerator must not exceed pollution standards.

Composting:

1. Composting is allowed for poultry, swine, sheep and goats. The Board of Animal Health may authorize other species to be composted or alternative methods to be used.
2. Composting must be completed in accordance with Board of Animal Health rules 1719.0100 ó 1719.4250
3. Composting facilities must be constructed on an impervious pad using rot resistant materials.

Rendering:

1. Carcasses must be contained in a scavenger proof enclosed area that is at least 200 yards from neighbor's buildings.
2. Carcasses must be picked up within 72 hours.
3. Effluent and effluent-contaminated water from the Dead Animal Disposal Area cannot discharge to "Water of the State".

B. Minimum setback requirements for livestock graveyards, compost facilities, incinerators and dead boxes.

1. 100' from water supply wells or abandoned wells or 200' from a shallow well (as defined by the Department of Health).
2. 50' from property line
3. 100' from all public road right of ways
4. 100' from tile intake
5. 100' from an intermittent stream
6. 300' from the ordinary high water level of surface waters of the state
7. 20' from buildings and structures

8. Shall meet all setbacks as stated in Subdivision 6.0 of this Ordinance
- C. No livestock graveyards, compost facilities, incinerators or dead boxes shall be located within:
1. General Floodplain
 2. Flood-prone areas
 3. Minnesota River Management District
 4. Shoreland Management District
 5. Wetland or wet areas
- D. All livestock graveyards and dead boxes shall be managed according to best management practices in a pollution, odor, and nuisance free manner on land leased, rented or owned by the livestock operator.

Subdivision 10.0 Conditional Use Permits

A. A conditional use permit shall be required:

1. When any new feedlot with 500 or more animal units is proposed.
2. When an existing feedlot is expanded to more than 500 animal units.
3. For an expansion or modification of an existing feedlot within the Shoreland Management Ordinance or Bluff Impact Zone as defined by the Shoreland Management Ordinance, or a Wellhead Protection Area.
4. For any expansion or modification to existing feedlots within the required setbacks of Subdivision 6.0 of the Yellow Medicine County Feedlot Ordinance.
5. For any feedlot requiring the Environmental Review Program Pursuant M.S. 116D.04 and 116D.045 and the administrative rules adopted by the EQB 4410.0200-4410.7800.
6. For any expansion of an existing feedlot within the general floodplain and flood prone areas.

B. Standards for Conditional Use permits:

1. Any changes or modifications not included on the feedlot permit or not specifically permitted in the Conditional Use permit, will require a new application for a Conditional Use permit.
2. Dead animals shall not be disposed of by burial. EXCEPTION: Only in case of emergency and with the permission of the Zoning Administrator will the burying of dead animals be allowed. The owner/operator shall submit soil borings, determine the Seasonal High Water Table separation and maintain adequate soil cover.
3. All liquid manure shall be injected or incorporated within 24 hours.
4. Submission of any other additional information requested by the County Zoning Administrator, Planning Commission, County Board of Commissioners or the Minnesota Pollution Control Agency.

5. The applicant shall be required to develop and implement a plan whereby a windbreak or other odor controlling measures will be installed so as to minimize odors where the Planning Commission and Board of County Commissioners deem it necessary to protect the interests of the adjacent property owners.
- C. Requests for modification of conditions or permitted activities shall require reapplication and approval of an amended Conditional Use Permit.

Subdivision 11.0 Variance

A variance may be requested from any requirements set forth in this Ordinance, where by reason of exceptional circumstances, the strict enforcement of such provisions would cause unnecessary hardship or would be unreasonable, impractical or not feasible.

Subdivision 12.0 Definitions

Agency - Minnesota Pollution Control Agency

Animal Feedlot ó A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this Ordinance, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under this Ordinance.

Animal Manure ó Means poultry, livestock, or other animal excreta, or a mixture of excreta with feed, bedding, precipitation and other materials.

Bluff Impact Zone – A bluff and land located within 20 feet from the top of a bluff and landward as defined in the Shoreland Management District Rules.

Cemetery - Land used or intended to be used for the burial of human remains and dedicated for cemetery purposes, including columbaria, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

- a. Inactive Cemetery ó no new burials have taken place for a term of 20 years.
- b. Active Cemetery ó in use at this time.

Church ó a structure that holds regular worship services and is recorded with the County Recorder as the like status. This structure must also be registered as a church with the Minnesota Department of Revenue.

Construction Short Form Permit – Construction short-form permit means a permit issued for an animal feedlot or manure storage area according to parts 7020.0505 and 7020.0535. This also

applies to new or existing feedlots intending to construct or expand to a capacity between 300 and 999 animal units. To qualify, the feedlot must be constructed and operated in accordance with technical standards in Minnesota Rules Chapter 7020.2000 to 7020.2225 and the facility does not have a pollution hazard. The duration of this permit is 24 months from the date of issuance.

Drainage Ditch - An excavated improved open channel used to conduct the flow of water and is part of a drainage system.

Dwelling - Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings.

Earthen Storage Basin ó An impoundment made by excavation or earthfill for temporary storage of animal or other agricultural waste.

Existing Building Site – A non-cultivated area that has been maintained, has a rural address and has an existing access to a public right-of-way and at least one of the following is present on the premises: a windbreak, water well, rural water, accessory structures, or a dwelling.

Existing Feedlot – An existing feedlot upon which more than 50 animal units, or 10 animal units for feedlots in shoreland, were confined for production purposes at any time within the previous five years, and has been registered within the last five years.

Expansion ó Construction or any activity which may result in the increase in the number of animal units that a feedlot is capable of holding or an increase in manure storage capacity.

Feedlot Operator ó An individual, corporation, a group of individuals, a partnership, joint venture, owner, or any other business entity having charge or control of one or more livestock feedlots, poultry lots or other animal lots.

Feedlot Setback - The nearest point of a neighboring dwelling to the nearest corner of the livestock or manure holding structure.

Incorporated - When manure is surface applied and mechanically incorporated within 24 hours of application

Injected – When manure is mechanically injected or tilled into the soil during manure application.

Interim Permit – Issued by the commissioner or the county feedlot pollution control officer in accordance with parts 7020.0505 and 7020.0535, for an existing feedlot of 999 or less animal units intending to construct or expand when the facility has a pollution hazard. These permits will expire two (2) years after the date they are issued.

Liquid manure ó Manure consisting of four percent solids or less.

Manure Management Plan ó Includes but not limited to the management of manure, manure

handling and method of application, prescribed rates of application and expected nutrient carryover, soils and manure testing and analysis, crop rotation, frequency of application, commercial fertilizer to be used where manure is land applied, signed spreading agreements, contracts and acreage available to manure application and plans for any proposed manure storage structure, and as further defined by the MPCA.

Manure Storage Area - Manure storage area means an area where animal manure or process wastewaters are stored or processed. Short-term and permanent stockpile sites and composting sites are manure storage areas. Animal manure packs or mounding within the animal holding area of an animal feedlot that are managed according to part 7020.2000, subpart 3, are not manure storage areas.

MPCA – Minnesota Pollution Control Agency

NPDES Permit – National Pollutant Discharge Elimination System. A permit issued by the MPCA for the purpose of regulating the discharge of pollutants from point sources including concentrated animal feeding operations (CAFOs).

NRCS - Natural Resource Conservation Service

New Animal Feedlot - New animal feedlot means an animal feedlot or manure storage area:

- A. constructed, established, or operated at a site where no feedlot or manure storage area existed previously; or
- B. that existed previously and has been unused for five years or more.

Owner – Any individual, firm, association, syndicate, partnership, corporation, trust, or other legal entity having sufficient property interest in a property to commence and maintain proceedings under this ordinance, or the owner of record.

Public Park – Any public land available for recreational, educational, cultural, or aesthetics use. This area is open to the general public and reserved for recreational, educational, or scenic purposes such as, but not limited to: Memorial Park, Oraas Park, Stone Hill Park, Timm Park, and Upper Sioux Agency State Park. ****This does not include Wildlife Management Areas owned or operated by the DNR, US Fish and Wildlife or the Department of the Interior.*

SDS (State Disposal Systems) Permit - A permit issued by the state to any facility that does not meet the criteria for an NPDES permit or Interim Permit that has a pollution hazard. SDS permits may also be issued for proposed, construction and operation of a new technology and may be processed in accordance with parts 7001.0040; 7001.0050; 7001; 0100, subparts 4 and 5; and 7001.0110.

Semi – Solid Manure – Manure consisting of 4% - 15% solids.

Solid Manure – Manure consisting of greater than 15% solids.

Waiver – For any new feedlot, or an expansion to an existing feedlot, with 500 animal units or less, that is within the required setback listed in Subdivision 6.0 of the Feedlot Ordinance. The

owner of a neighboring residence may, by signing a waiver, intentionally relinquish their right, claim or privilege to a public hearing and give their approval to the proposed project. All waivers shall be legally recorded at the County Recorder's office, by the feedlot proposer.

Said waiver may include conditions onto the proposed feedlot operation, such as, but not limited to:

1. Be notified when manure is to be applied.
2. Request trees to be planted as barriers and screening.
3. May establish a specific distance manure application is to be from the building site.

Water Appropriation Permit ó For purposes of this Feedlot Ordinance, a permit required by the DNR for the appropriation of waters of the state, such as, but not limited to: withdrawal of water for any use at a rate greater than 10,000 gallons per day or more than five million gallons per year.

Wildlife Management Areas ó Public lands for the purpose of reclaiming, creating and managing upland and wetland wildlife habitat as defined by the Natural Resource Conservation Service. These areas are primarily owned and operated by DNR, US Fish and Wildlife and the Department of the Interior.